THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No.23216 OF 2006

Dated 12-03-2007

Between:
V.Yadagiri.

……..Petitioner

Vs.

The Director General (Personnel), BSNL Sanchar Bhavan, Ashkok Road, New Delhi and others.

…….Respondents.

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THE HON'BLE SRI JUSTICE N.V.RAMANA

Writ Petition No. 23216 of 2006

Oral order:

This writ petition is filed seeking to declare the action of the respondents in not granting the petitioner the status of regular Mazdoor and in not regularizing his services with effect from 09.06.2000, as illegal and arbitrary, and violative of the judgment dated 01.07.2003 passed by the Central Administrative Tribunal in O.A. No. 674 of 2003, and consequently to direct the respondents to forthwith grant the petitioner the status of regular Mazdoor with effect from 09.06.2000.

The petitioner claims to have joined the service of the 1st respondent-BSNL as Casual Labour on 09.07.1986. He states that he worked as casual Mazdoor from 09.07.1986 to 30.12.1986 and from 01.09.1988 to 01.02.1993. While so, the petitioner states that the 3rd respondent addressed a letter dated 13.03.2001 to the 2nd respondent to regularize the services of 45 casual Mazdoors who fulfilled the requirements of being conferred the status of temporary Mazdoors. The petitioner states that in the said letter, his name was shown at Sl. No.23. On the next day, i.e. on 14.03.2001, the petitioner states that the 3rd respondent addressed another letter to the 2nd respondent,

informing that candidates shown at Sl. Nos.1 to 17 in the letter dated 13.04.2001, engaged departmentally on part-time basis upto 14.5.1997 would be engaged for full eight hours duty from 15.5.1997, while the candidates shown at Sl. Nos. 18 to 45, engaged on A.C.G. upto 30.04.1997, would be engaged through the Contractor from 01.05.1997.

The petitioner states that he fulfils the condition of having worked 240/206 days in a year, and as such, he is entitled to be conferred the status of a temporary casual Mazdoor from 01.08.1988. The petitioner states that as the respondents did not take any action for conferring him the status of temporary casual Mazdoor, he along with five other similarly placed persons, filed O.A. No. 674 of 2003, and though the Central Administrative Tribunal, vide order dated 01.07.2003 directed the respondents to consider the case of the petitioner and others for grant of temporary status of casual Mazdoor, for regularization of their services as regular Mazdoors w.e.f. 09.06.2000, no action thereon had been taken. Assailing the said inaction, the petitioner filed writ petition in W.P.

No. 19829 of 2005, and as the petitioner in effect, was seeking implementation of the orders passed by the Central Administrative Tribunal, the same was dismissed was by this Court holding that the remedy of the petitioner was elsewhere. Pursuant to the said order, the petitioner states that he filed O.A. (SR) No. 1774 of 2006, and the

Central Administrative Tribunal, refused to entertain the same on the ground that it has no jurisdiction to entertain BSNL matters. Hence, the petitioner filed the present writ petition.

The respondents filed counter denying the allegations made by the petitioner in the affidavit filed in support of the writ petition.

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents-BSNL.

Admittedly, the 1st respondent-BSNL is a company incorporated under the Companies Act, 1956, and as such, the Central Administrative Tribunal has no jurisdiction to entertain service matters relating to employees of BSNL. Therefore, the Central Administrative Tribunal has rightly refused to entertain the O.A. filed by the petitioner.

Be that as it may, whether the petitioner worked from 09.07.1986 to 30.12.1986 and from 01.09.1988 to 01.02.1993 for 240/206 days in a year, if so, whether he is entitled to be granted temporary status of casual Mazdoor, whether the petitioner, whose name was found at Sl. No.22 of the letter dated 13.03.2001 addressed by the 3rd respondent to the 2nd respondent, was entitled to be engaged departmentally along with employees, namely candidates shown at Sl. Nos. 1 to 17, who were directed to be engaged departmentally, by the 3rd respondent, and whether the 3rd respondent was not justified in informing the 2nd respondent to engage the persons, whose names were found at Sl. Nos. 18 to 45, including the

petitioner, whose name was found at Sl. No. 22, through the Contractor, are all disputed questions of fact, which cannot conveniently be gone into in a proceeding under Article 226 of the Constitution of India, and remedy of the petitioner, if any, is to approach the competent authority/Tribunal under the Industrial Disputes Act, 1947.

Therefore, I deem it appropriate to disposed of the writ petition granting liberty to the petitioner to approach the competent authority/Tribunal under the Industrial Disputes Act, 1947, for the reliefs sought in the writ petition.

Accordingly, the writ petition is disposed of. No order as to costs.

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N.V.RAMANA J.,

Dt.12.03.2007
tjs